

**PUBLIC MEETING  
October 5, 2010  
MINUTES**

Chairman Mike Murray called the meeting to order at 9 a.m.

Commissioners Derek Brown and Andy Hunthausen were present. Others attending all or a portion of the meeting included Eric Bryson, Katie Jerstad, Kelly Blake, Lindsay Morgan, Eric Griffin, Kathy Moore, Jan Williams, Deb Tillo, Audra Zacherl, Misty Edwards, Rebecca Shaw, Jack Walsh, Dean Retz, Mark Simonich, John Grant, Byron Stahly, Jerry Shepherd, Ryan Werner, Chad Koehler, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. ~~Lease Agreement Between Sheriff's Office and Don Converse (Lessor) to Provide a Site to Locate Radio Equipment Associated with Public Safety Communications for the Augusta Ambulance and Fire Service Area. The term of the agreement is 10 years. Annual rent shall be \$1,200.00 per year. (Tammy Potter) Pulled pending receipt of Lessor signature.~~
- b. East Helena Superfund Cooperative Agreement Between Lewis and Clark County and U.S. Environmental Protection Agency to Provide Long-Term Funding to Reimburse the Lewis & Clark City-County Health Department Lead Education and Abatement Program for the Services in Lead Abatement, Blood Lead Level Monitoring, Education and Health Intervention. Project Period is 9/1/2010 – 8/31/2015 in the Amount of \$93,601. (Kathy Moore)
- c. Resolution 2010-312 Levying an Assessment Upon Customers of the Lincoln Solid Waste Management District Who Own Personal Property in the District and Owe an Unpaid Overage Charge for FY 2010. (Misty Edwards)
- d. Resolution 2010-313 Levying an Assessment Upon Customers of the Lincoln Solid Waste Management District Who Own Real Property in the District and Owe an Unpaid Overage Charge for FY 2010. (Misty Edwards)

Eric Bryson reported on the consent agenda and recommended approval, postponing consent item 'a' to a future public meeting.

No other public comments were received.

Commissioner Brown moved approval of consent action items 'b – d' and authorized the Chair to sign. Commissioner Hunthausen seconded the motion. The motion carried 3-0

Proposed Major Subdivision to be Known as Frontier Village Estates. (Applicant: KW Enterprises, Inc.) (Planner: Lindsay Morgan). The applicant proposes to divide the existing 39.06-acre tract of land into 36 lots, each for one single-family dwelling. The proposed subdivision is located west of and adjacent to Midnite Drive and north of and adjacent to John G. Mine Road, between one-quarter of a mile and one-half of a mile

east of the junction of Applegate Drive and John G. Mine Road. The applicant has requested two variances from county subdivision regulations. The applicant is proposing a pedestrian/bicycle easement and trail for the parkland dedication. (Cont'd from 9/23/10)

Lindsay Morgan stated that the first variance was approved by the Commission on September 23. Staff recommended approval of the proposed preliminary plat subject to the Conditions, Findings and Conclusions as amended by the Planning Board, and as proposed in the interoffice memorandum dated October 5.

Variance #2 from the paving requirements for the internal road network. Commissioner Brown moved to approve the variance as requested. Commissioner Hunthausen seconded the motion for discussion.

After discussing health and safety issues, guidelines for a variance, and a proposed condition by Commissioner Hunthausen, Mr. Grant stated that the applicant would agree with the condition proposed by Commissioner Hunthausen.

Condition to Variance #2. Commissioner Hunthausen moved to add a condition requiring double-shot chip seal on the internal roads of this subdivision as a condition of this variance, with the base of the road built to the appropriate standard. Commissioner Murray seconded the motion. Commissioner Brown voted no. The motion carried 2-1.

The motion to approve the variance carried 3-0.

Commissioner Brown moved to approve staff proposed amendments to conditions of approval dated October 5. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Amendments to Phase I Conditions of Approval.

Condition 6.b. Improve all of the internal roads. Commissioner Brown moved to remove the condition. Commissioner Hunthausen seconded the motion for discussion. The motion failed 2-1. Hunthausen and Murray voted no.

Condition 11. Bus stop location. Commissioner Brown moved to remove the second sentence of this condition. School district transportation does not take busses into internal access roads. Commissioner Hunthausen seconded the motion. Commissioner Murray voted no - for safety, the school district does go off Lincoln Road into some subdivisions. The motion carried 2-1.

Condition 12. Commissioner Hunthausen moved that the word "improvement" be removed in the second line, as recommended by Ms. Morgan. Commissioner Brown seconded the motion. The motion carried 3-0.

Condition 17. Traffic control and street identification. Commissioner Brown moved to remove this condition as redundant with Condition 16. Commissioner Hunthausen

seconded the motion. The motion carried 3-0.

Condition 21.g. Thirty-foot-wide county road easement and turnaround dedication providing access for fire protection improvements. Commissioner Brown move that 'county road' be changed to utility access. Commissioner Hunthausen seconded the motion. After discussion, Commissioner Brown modified his motion to change the language to "fire protection maintenance access easement." Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Condition 21.l. Notification of setback requirements. Commissioner Brown moved that the condition read, "15-foot minimum setback be listed on the plat." Commissioner Murray seconded the motion. The motion carried 3-0.

Condition 22.b. Notice, Approach Permits. Commissioner Brown moved to remove the condition as redundant and paper-filler. Commissioner Hunthausen seconded the motion for discussion. Commissioner Murray seconded the motion. Commissioner Hunthausen voted no. The motion carried 2-1.

Condition 22.c,d,e. Notices. Commissioner Brown moved to remove these conditions as redundant and paper-filler. Commissioner Hunthausen seconded the motion for discussion. The motion failed 2-1. Hunthausen and Murray voted no.

Condition 22.i. Commissioner Brown moved to remove the no access restriction. Commissioner Hunthausen seconded the motion. Commissioner Hunthausen voted no. The motion carried 2-1.

Condition 22.j. Commissioner Brown moved to remove the no access restriction. Commissioner Hunthausen seconded the motion for discussion. Hunthausen and Murray voted no. The motion failed 2-1.

Condition 23. Commissioner Brown moved to change the language to read, Prior to filing of the final plat, the following improvements shall be "installed according to 76-3-507." Condition 23.a. would read, internal access roads providing legal and physical access to all lots within Phase I, and ~~including~~ 'excluding' the road segments between Lots 3 and 4, and Lots 6 and 7. Commissioner Hunthausen seconded the motion. The motion carried 3-0. Strike the last paragraph of condition 23.

Commissioner Brown moved to allow staff and the applicant to work out the exact verbiage dealing with bonding. Commissioner Murray seconded the motion. The motion carried 3-0.

#### Amendments to Phase II Conditions of Approval -

Condition 15.p. Commissioner Brown moved to remove this condition. The county does not have the authority to enforce building codes and there is no seismic Zone 3 referenced in the building code. Commissioner Hunthausen seconded the motion for discussion. The motion carried 2-1. Commissioner Hunthausen voted no.

Condition 15.q. Commissioner Brown moved to remove the condition as redundant and paper-filler. Commissioner Hunthausen seconded the motion. The motion failed 2-1. Hunthausen and Murray voted no.

Condition 15.s. Commissioner Brown moved to remove the condition as redundant and paper-filler. Commissioner Hunthausen seconded the motion. The motion failed 2-1. Hunthausen and Murray voted no.

Condition 15.t. Commissioner Brown moved to remove the condition, not a public health, safety and welfare issue. Commissioner Hunthausen seconded the motion. The motion failed 2-1. Hunthausen and Murray voted no.

Condition 15.u. Commissioner Brown moved to remove the conditions as redundant and paper-filler. Commissioner Hunthausen seconded the motion for discussion. The notices are informational only. The motion failed 2-1. Hunthausen and Murray voted no.

Condition 15.v. Commissioner Brown moved to remove the condition. Commissioner Hunthausen seconded the motion. The motion failed 2-1. Hunthausen and Murray voted no.

Condition 15.x. Commissioner Brown moved to remove the condition. Commissioner Hunthausen seconded the motion. The motion failed 2-1. Hunthausen and Murray voted no.

Condition 15.y. Commissioner Brown moved to remove the condition as redundant. Commissioner Hunthausen seconded the motion. The motion carried 2-1. Hunthausen voted no.

Condition 15.z. Commissioner Brown moved to remove the conditions as redundant. Commissioner Hunthausen seconded the motion. The motion failed 2-1. Hunthausen and Murray voted no.

Condition 15.aa. Commissioner Brown moved to remove the condition. Commissioner Hunthausen seconded the motion for discussion by Katie Jerstad. The motion failed 2-1. Hunthausen and Murray voted no.

Commissioner Brown moved to make the similar changes to the conditions in Phase II as were approved in Phase I. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Break – 10:15-10:25.

The proposed findings and conclusions were reviewed and the Commissioners stated their reasons for granting the variances.

Commissioner Brown does not believe that double fronted lots provide any impact on health and welfare of the public. Commissioner Hunthausen concurred.

The Commission acknowledged that this is an amended motion based on the amendments that were passed in this session, and incorporated new findings of fact as amended. The motion carried 3-0. (Note: the original motion was made on 9/23/10)

Final Plat – Bender Minor Subdivision. (Applicants: Thomas and Cecelia Bender) (Planner: Rebecca Shaw) The applicants have submitted an application for final plat (site plan) approval of the Bender Minor Subdivision. The legal description is the NW1/4 of Section 2, T10N, R1W, P.P.M., Lewis and Clark County, Montana.

Rebecca Shaw presented the staff report. The final plat and site plan application was subject to 10 conditions and was preliminarily approved in November of 2007. All 10 of the conditions have been met. The physical access comes from Canyon Ferry via a shared driveway. There was no condition that applicants obtain an easement from the neighbor. They received an email from MDT saying they did not have any additional requirement for the additional use.

Commissioner Hunthausen moved approval of the final plat. Commissioner Brown seconded the motion. The motion carried 3-0.

Stahly Engineering Contract Supplement No. 9 for Additional Services Performed on the Marysville Road Project TSCP 25(43), CN 4983. (Audra Zacherl) This contract supplement is for additional work performed in the amount of \$54,173.00, raising the existing contract ceiling from \$1,794,330.10 to \$1,848,503.10.

Audra Zacherl presented the contract supplement for additional work on the Marysville Project for transferring water rights, erosion control monitoring and inspection, performing as construction manager on the Fairgrounds wetlands mitigation planting, design specifications and quote package for the Woolsten Well flowmeter; additional roadway engineering and construction inspection and additional analysis and reporting following a large storm water runoff event and subsequent resident complaint. There may be another supplemental contract related to cracks that develop. Staff recommended that the Commissioners authorized the Chair to sign the contract supplement.

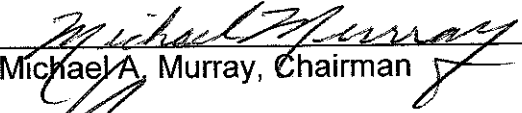
No public comments were received.


Commissioner Hunthausen moved approval of the contract and authorized the Chair to sign. Commissioner Brown seconded the motion. The motion carried 3-0.

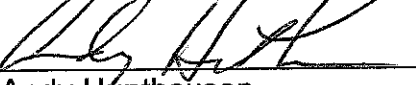
Public comments on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

There was no other business, the meeting adjourned at 10:47 a.m.

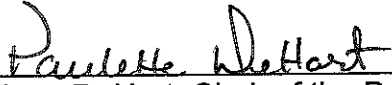
LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
Michael A. Murray, Chairman

  
Derek Brown

  
Andy Hunthausen

ATTEST:

  
Paulette DeHart, Clerk of the Board